IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION (PIL) NO.2361 OF 2005

R.S.Keluskar, Advocate — Petitioner
vs.
Union of India & ors. — Respondents

None for the petitioner.

Mr.A.N.Samant for the respondents 1 and 3.

Mr.C.M.Jha for the respondent no.3.

CORAM : R. M. LODHA &
A.S.BAGGA, JJ.

DATED : 8th June, 2006

P.C.

None appears for the petitioner. However, in his absence we examined the writ petition with the assistance of the advocates for the respondents.

2. The petitioner is the advocate. He is said to be practicing in Railway Claims Tribunal. In the body of writ petition, he has raised many grievances. According to him the present place of Railway Claims Tribunal is far away from V.T.Station and is like a grave yard to bury the dead bodies. His other grievance is that Railway Claims Tribunal sends the cheques directly to the accident victims and thereby the advocates practicing at Railway Claims Tribunal are deprived of their fees. He wants that Registrar of Railway claims Tribunal should be directed to deduct the advocates fee

at the rate of 15% while distributing the cheques to the victims. His one more grievance is that Railway Claims Tribunal sits once in a month for nearly one week though there are many cases in Mumbai. According to him, the time limit for filing the claim applications should be removed from the Railways Act, 1989. With list of long wish in the body of the writ petition, the petitioner in the prayer has prayed that the illegal Act of not introducing contributory negligence be quashed and set aside.

3. Reply affidavit has been filed on behalf of the respondent no.2. It is stated that after the inspection of the Tribunal in the month of May, 2005 by the General Manager of Western Railway along with the Principal Chief Engineer and the Divisional Railway Manager, the decision has been taken to expand the building allotted to Railway Claims Tribunal. It is also stated that the post of Vice Chairman (Judicial) was lying vacant from 6th February, 1998 to 10th March, 2004 and due to that the regular sittings of Division Bench could not be held , but now since the appointment of Vice Chairman (Judicial) has been made, the Bench is functioning regularly.

4. In our considered view, the writ petition is wholly misconceived. No direction can be issued to the Railway

Claims Tribunal that the payment should be made to the victims after deducting the advocates fee. The Railways Act provides for limitation and, therefore, the petitioner's request that the time limit to file the claim applications should be removed cannot be acceded to. Section 124-A of the Railways Act, 1989 is very clear and the concept of contributory negligence is neither introduced in the said provision nor is recognised. There is nothing wrong in it.

5. All in all, we find that the writ petition does not deserve to be entertained. We, accordingly, dismiss the same.

(R.M. LODHA,J.)

(A.S. BAGGA,J.)